



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Matthew P. Kulig, Timmy L. Brooks, John W. Lockwood, and David Kyle Reddick

Application No.: 10/037,593

Filing Date: October 19, 2001

Title: SYSTEM AND METHOD FOR CONTROLLING TRANSMISSION OF DATA PACKETS OVER AN INFORMATION NETWORK

Confirmation No.: 6376

Group Art Unit: 2157

Examiner: Barbara N. Burgess

Attorney Docket No.: 60022210-0157

INFORMATION DISCLOSURE

STATEMENT

SONNENSCHN NATH & ROSENTHAL LLP
Customer No. 26263

Commissioner for Patents
P.O. Box 1450
Arlington, VA 22313-1450

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date given below.

June 2, 2008
date of signature

Edward J. Radlo
Edward J. Radlo, Reg. No. 26,793

Sir:

Pursuant to the provisions of 37 CFR §1.56 and §1.97-§1.98, Applicants hereby submit patents, publications, and other information enclosed herewith and listed on the enclosed Forms Substitute PTO 1449 of which they are aware, which they believe may be material to the examination of this application, and in respect of which there may be a duty to disclose.

A list of the references is set forth on the attached Substitute Forms PTO 1449. A copy of each of the listed items is supplied herewith, except for issued United States patents and published patent applications.

Applicants note that the Examiner did not consider the eleven references that Applicants brought to the attention of the USPTO in their IDS mailed October 26, 2001. Therefore, Applicants are re-citing these references as part of this IDS.

Applicants wish to call the Examiner's attention to some rather unique circumstances regarding the prosecution history of the present patent application. This patent application has four inventors (Kulig, Brooks, Lockwood, and Reddick), one of whom (Lockwood) is also an inventor on issued patent 7,093,023, which issued from U.S. patent application USSN 10/152,532, filed on May 21, 2002 (hereinafter "Lockwood II"). Lockwood II was prosecuted by the undersigned's law firm, and issued on August 15, 2006. During the prosecution of Lockwood II, three different Office Actions each included a double patenting rejection of certain Lockwood II claims with respect to the present patent application. The first two Office Actions also rejected claims in light of other prior art. After amendments and arguments managed to overcome the rejections that were not based upon the present patent application, our law firm successfully overcame the double patenting rejection by referring to the (no longer operative) USPTO policy that, in cases of a provisional double patenting rejection between two pending applications: "if the 'provisional' double patenting rejection in one application is the only rejection, the examiner should then withdraw that rejection and permit the application to issue as a patent, thereby converting the 'provisional' double patenting rejection in the other application(s) into a double patenting rejection at the time the one application issues as a patent."

As a result, the Lockwood II patent issued, while prosecution of the earlier-filed present patent application is still ongoing with a different Examiner. The Examiner of the present patent application has not raised a double patenting rejection, and is not necessarily aware of the prosecution history in Lockwood II. Thus, Applicants are now bringing to the attention of the present Examiner the above-mentioned Lockwood II prosecution history. Furthermore, Applicants are listing said U.S. patent 7,093,023 in the enclosed Substitute 1449.

While the information and references disclosed in this Information Disclosure Statement may be "material" pursuant to 37 CFR §1.56, submission of this IDS is not intended to constitute an admission that any patent, publication, or other information referred to herein is "prior art" for this invention unless specifically designated as such.

In accordance with 37 CFR §1.97(g), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made, or that no other material information as defined in 37 CFR §1.56(a) exists. It is submitted that this Information Disclosure Statement complies with 37 CFR §1.98 and MPEP § 609, and the Examiner is respectfully requested to consider the listed references.

This Information Disclosure Statement is being filed after the mailing of at least one Office Action but before the mailing of a final Office Action. Thus, Applicants are enclosing the required fee of \$180.00 set forth in 37 CFR §1.17(p). The Commissioner is hereby authorized to credit any overpayment or to charge any deficiency in any required fee to Deposit Account No. 19-3140. This sheet is being enclosed in duplicate.

Respectfully submitted,

date of signature:

June 2, 2008

Edward J. Radlo
Edward J. Radlo
Reg. No. 26,793
Attorney of Record

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enclosures

cc: IP/T docket CH (w. just 1449 forms)
G. Sullivan (")
M. O'Brien (")



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